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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,168

04/10/2006

Fujio Koeda

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38834

7590

09/05/2008

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EXAMINER

DURHAM, NATHAN E

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

09/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,168	Applicant(s) KOEDA ET AL.	
	Examiner NATHAN E. DURHAM	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 12 August 2008 has been entered.

Response to Amendment

Applicant's amendment and corresponding arguments, filed 12 August 2008, have been reviewed and considered. Claim 3 has been amended, claim 5 has been added, and claims 1 and 2 have been previously canceled. Therefore, claims 3-5 are currently pending. In the Final Rejection dated 12 May 2008, the examiner was interpreting element 14 of WORDINGHAM as the wall surface wherein the flexible member (10 excluding 14) is formed (Page 2 of previous Office Action). The amendment dated 12 August 2008 overcomes this interpretation of the wall because the applicant's amended claim language clearly distinguishes the clothes hanger device (wall covering) and the wall as two distinct structures. However, applicant's amended claim 3 and previously presented claim 4 are still considered to be rejected under 35 U.S.C. 102(b) by WORDINGHAM (US 1,179,596) for the reasons as addressed below.

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Applicant's claims 3-5 are directed at a clothes holding device that is formed as part of a wall covering. The applicant is not claiming a combination of a wall and clothes hanger device, but rather only the structure of the clothes hanger device. Therefore, the claim language directed at the clothes hanger device in relation to the wall is not further limiting the structure of the clothes hanger device. The recitations directed at the wall are considered purely functional language directed at the use of the clothes holding device and not at the structure of the clothes hanger device. Therefore, the functional language concerning the wall is not given patentable weight within the claims.

WORDINGHAM discloses a clothes hanger device containing all the structure as claimed by the applicant and therefore is considered fully capable of providing the function as discussed above. Element 15 of WORDINGHAM allows the flexible member (10) to hang from a hook (could be in contact with a wall) and cover an entire wall surface depending on the particular size of the wall. The applicant's claimed recitations directed at the functional relationship between the clothes holding device and the wall will be interpreted as a relationship between the clothes holding device and a vertical plane defined by the flexible member 10.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

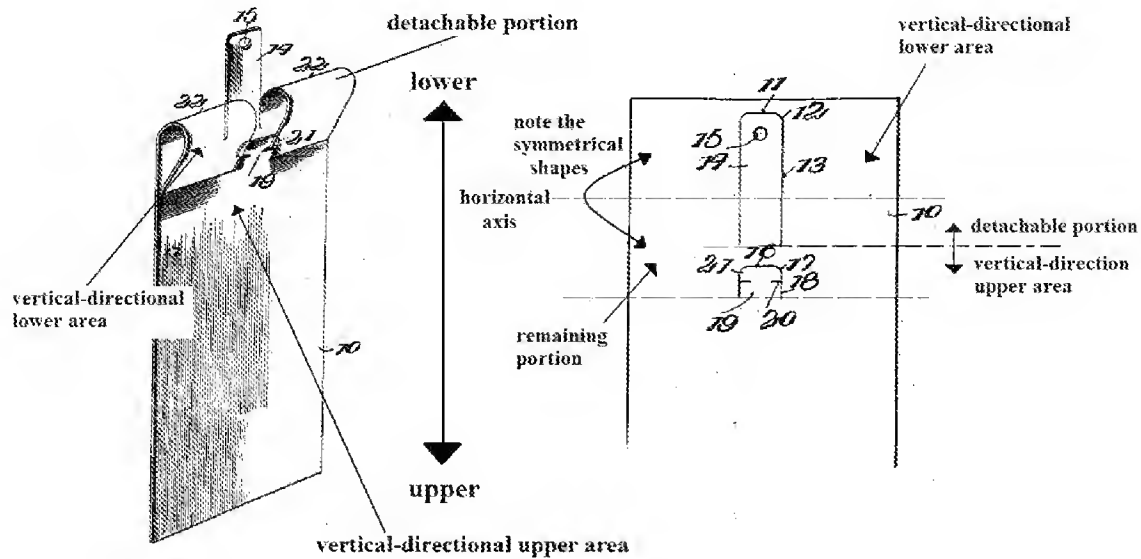
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by WORDINGHAM (U.S. Patent 1,179,596).

Regarding claim 3, WORDINGHAM discloses a clothes holding device comprising a flexible member (10) as a wall covering wherein a slit (11, 13) is provided thus aiding in defining a detachable portion (around 22, refer to figure below). WORDINGHAM discloses the detachable portion of the flexible member being detached from the vertical plane (as defined by flexible member 10; refer to Response to Amendment section above) in a line symmetrical shape (refer to figure below) with a horizontal axis (refer to the figure below) as a symmetrical axis (Figures 2 and 3). Element around 22 is shown being detachable from the vertical plane by being folded over itself to form a shoulder support for a garment (Figures 1 and 2). WORDINGHAM discloses a vertical-directional upper area (refer to figure below) not detachable from the vertical plane (has no folded portion) so that a vertical-directional lower area (22, refer to figure below) is bent along the horizontal axis (Figures 2 and 3). Note that the applicant has failed to claim any structural limitations with reference to “upper” and “lower” and therefore something being “upper” or “lower” is based on personal perspective (Refer to the figure below). FEIGELMAN discloses a bent portion (refer to figure below) and a remaining portion (refer to figure below) being capable of holding clothes when the detachable portion is detached (Figures 1 and 2) and when the detachable portion is not detached the bent portion and the remaining portion are

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assimilated in the flexible member and are recognized as a single straight structure defined by the vertical plane.



Regarding claim 4, WORDINGHAM discloses an engagement member in the vertical-directional upper area (18, 19, 20) and in the vertical-directional lower area (edges of the vertical-directional lower area as shown in figure 2) (Figures 2 and 3). WORDINGHAM discloses the engagement members being engaged with each other thereby a status where the vertical-directional lower area is bent along the horizontal axis is maintained (Fig. 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over WORDINGHAM (U.S. Patent 1,179,596) in view of KOLTON et al. (U.S. Patent 5,501,378).

WORDINGHAM discloses a clothes holding device with engagement members as discussed above. However, WORDINGHAM fails to disclose the engagement members being hook buttons. KOLTON teaches a clothes holding apparatus (40) comprising a flexible member wherein hook button engagement members (50, 52, 58, 60) hold two areas (44, 56) of the clothes holding apparatus together (Figures 4-6). The hook button engagement members are used in order to provide a secure form of engagement between the two areas that can easily be snapped into engagement. Accordingly, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have replaced the engagement members of WORDINGHAM with hook button engagement members, in light of the teachings of KOLTON, in order to provide a secure engagement between the vertical-directional upper area and the vertical-directional lower area wherein the engagement members can be easily snapped together.

Conclusion

The prior art made of record, as cited on attached PTO-892, and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHAN E. DURHAM whose telephone number is (571)272-8642. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NED

/Gary L. Welch/

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Supervisory Patent Examiner, Art Unit 3765